**Parents May Bear the Burden of Proof When Filing a Due Process Complaint Against a School District for Denying Their Child a FAPE**

In *Schaffer ex. rel. Schaffer v. Weast,* 546 U.S. 49 (2005),the Supreme Court stated that whoever asks for a due process hearing regarding a student’s IEP must take on the responsibility of proving his or her case. What does this mean for parents and educational rights holders? If you are unhappy with the school’s proposed IEP for your child after your yearly meeting (or if the school will not provide your child with an IEP), you may ask for a due process hearing to challenge the IEP in front of an administrative law judge. When you request a hearing, it is your responsibility to explain to the judge why the IEP is inappropriate; unless he or she is given a reason to believe otherwise, the judge will assume that the IEP is appropriate. It is not the school or district’s responsibility to show why the IEP is suitable. This means it is very important that you come to the due process hearing prepared to explain to the judge your concerns about the IEP and why the proposed plan will not be helpful or adequate to meet your child’s special educational needs. In most situations, you should seek the advice of an attorney prior to filing for a due process hearing.